

**UTAH RESIDENTIAL MORTGAGE  
REGULATORY COMMISSION MEETING**

Heber M. Wells Building

Room 210

9:00 A.M.

December 7, 2016

TELEPHONIC MEETING

**MINUTES**

**DIVISION MEMBERS PRESENT**

Jonathan Stewart, Division Director  
Mark Fagergren, Education and Licensing Director  
Kadee Wright, Chief Investigator  
Justin Barney, Hearing Officer  
Judith Jensen, Assistant Attorney General  
Eric Stott, Real Estate Analyst  
Amber Nielsen, Board Secretary  
Marvin Everett, Investigator  
Tim Cuthbertson, Investigator  
Lark Martinez, Mortgage Education Coordinator  
Mike Page, Division Staff  
Desha Pages, Division Staff  
Faruk Halilovic, Division Staff

**COMMISSION MEMBERS PRESENT**

Steve Hiatt, Chair  
George Richards, Vice Chair  
Cathy J. Gardner, Commissioner  
John T. Gonzales, Commissioner  
Kay Ashton, Commissioner  
G. Scott Gibson

**PUBLIC MEMBERS PRESENT**

Lance Miller

The meeting on November 2, 2016 of the Utah Residential Mortgage Regulatory Commission began at 9:00 a.m. with Chair Hiatt conducting.

**PLANNING AND ADMINISTRATIVE MATTERS**

A motion was made and seconded to approve the November 2, 2016 minutes as written. Vote: Chair Hiatt, yes; Commissioner Gardner, yes; Commissioner Gonzales, yes; Commissioner Ashton, yes. The motion is approved.

#### Public Comment Period

There were no comments given.

### **DIVISION REPORTS**

#### **Director's Report – Jonathan Stewart**

Director Stewart welcomed Scott Gibson who will be the new commissioner. Mr. Gibson is employed with Veritas in Saint George; and he is highly recommended from several people. Director Stewart thanked Commissioner Gonzales for his years of service and for continuing in the interim. Mr. Gibson will not be voting in the meeting today since he has not yet taken the Oath of Office. He will be sworn in at the next live meeting.

Director Stewart reported the draft bill has been updated to include language on the adoption of the UST and the draft has been sent to the office of legislative research. The Division is waiting on receiving a draft back from that office before moving forward.

Chair Hiatt thanked Commissioner Gonzales for his four years of service and for the additional six months of service while awaiting the appointment of a new commissioner. Chair Hiatt opened the floor to Mr. Gibson for a brief introduction. Mr. Gibson stated he is excited to be a member of the Commission. He has been in the industry since 1998. He is currently a Branch Manager and BLM with Veritas. He is interested in working with the commission at this level.

#### **Enforcement Report – Kadee Wright**

Ms. Wright reported in November the Division received 5 complaints; opened 1 case; closed 1 case; leaving 63 open mortgage cases. The AG's office has 8 cases. Ms. Wright reported two of the cases with the AG's office have drafted petitions which will be filed soon.

There are no stipulations for review.

#### **Education/Licensing Report – Mark Fagergren**

Mr. Fagergren reported on the renewal period; there are approximately three weeks left for applications to be submitted. There are 5,960 licenses eligible for renewal; as of yesterday, 3,827 have submitted. Last year there were 5600 licenses eligible. 64% have submitted for renewal so far this year. Last year 61% had submitted for renewal at this point. Of the applications for renewal submitted the staff has processed and approved 2,519 which is 68% (that same percentage as last year).

Mr. Fagergren presented some information regarding the transition to the UST. On November 3, 2016, the Division spoke with Peter Marks regarding the adoption requirements. Once the bill passes, the Division will need to notify the NMLS and the licensees of the transition timeframe. The Division would like to have the test become effective as close as possible to the effective date of the statutory change. The NMLS states there will be a 20-200% licensing increase from the adoption of the UST. Two weeks prior to the effective date the Division will need to notify the NMLS to update the checklist and disable the Utah State Test. The revised Utah State Test became effective November 4, 2016. Until the transition to the UST, applicants will be required to take the Utah State Test. Mr. Fagergren noted the Division informed the NMLS of the Commission's decision to add post-license education; the Division will keep the NMLS informed once decisions regarding the post-license education specifics have been made.

Mr. Fagergren reported there are some individuals who take the Lending Manager exam and pass one portion of the exam but fail the other. Those individuals want to only be required to retest on the portion of the exam which they failed. In the real estate licensing, individuals can do this. In real estate, the applicant may apply if both parts of the exam are passed within six months of each other. To make this possible for mortgage, a rule would need to be drafted and approved. If the Commission would like this, the Division would present a draft rule at the next meeting. Commissioner Gardner agrees this would be a beneficial change. Commissioner Ashton asked for clarification of the rule change. Vice Chair Richards agrees this would be a good change. Mr. Gibson stated he thinks generally the change is a great idea; however, he feels six months is too much time. He recommends a three-month period. Chair Hiatt also questioned the six-month period; he agreed with Mr. Gibson's suggestion for three months. Commissioner Gardner also agrees with 90 days since it keeps the information fresh. She likes the way the real estate industry rules are setup, but would prefer the shorter timeframe. Mr. Fagergren outlined some of the Real Estate Commission's considerations when drafting the rule with the six-month period. Mr. Barney will draft a rule for the next meeting. Director Stewart stated prior to that, the Division will check the statutory authority.

#### **Hearing Officer Report – Justin Barney**

Mr. Barney reported there are no licensing stipulations for review this month.

#### **Commission and Industry Issues**

Mr. Barney briefly summarized the issue regarding the proposed rule change on signing a document on behalf of another person. Mr. Gibson asked for clarification if the intent of the rule is to require an ink signature on documents. Mr. Barney stated the Division does not require that. Director Stewart stated electronic signature, faxed signature, and signature stamps are all still allowed; however, an individual cannot authorize someone else to attach their signature. The rule as drafted does

allow a PLM or BLM to sign on behalf of someone else, but there must be an indication that the individual is signing on the other person's behalf. Mr. Gibson asked for further clarification. Director Stewart clarified regarding the signature stamp. It was mentioned that electronic signatures are still allowable under the rule. Mr. Miller stated that it is impossible to affix an electronic signature to the final 1003. Chair Hiatt asked if an emailed copy is prohibited by the rule. Mr. Barney stated that an emailed signature is not prohibited. Mr. Miller asserts that even emailing a signed copy is something that does not work with the final 1003. Director Stewart posited that affixing a stamp or signing someone else's name, will probably conflict with the general forgery statute. Director Stewart also referred to some previous conversation where it was stated that if the final 1003 is not signed by the LO on the loan, that the loan will not be funded. Director Stewart if someone else signs the LO's name or affixes their stamp does the investor know that or is the investor being misled to believe that is the original LO. Commissioner Gardner stated that even though it may be difficult changes need to be made to ensure that the signature that is affixed to the final 1003 has been taken care of by the right person at the right time, even though it may be inconvenient and take some extra time. Mr. Fagergren is stating the issue is derived from the presumption that the person whose signature is affixed to the document did in fact sign the document; however, there are issues of individuals stating that they did not in fact sign the document. Mr. Miller stated this will not correct that problem. Mr. Miller stated there could be some unintended consequences if this rule is passed. This issue was discussed further. Commissioner Gardner stated that the assumption is that the signature affixed was affixed legally by the person whose name was signed. Commissioner Gardner stated the issue needs to be addressed because the industry really does have a problem. Mr. Barney asked for some clarification when a signature stamp could be used, if there was explicit authority for that use. This issue was discussed further. Commissioner Gonzales asked for some clarification for the signature on the final 1003. This issue was discussed further. Chair Hiatt stated he feels the discussion today was beneficial. He proposes that the issue be added to the agenda for an in person meeting next month. Commissioner Ashton agrees that the decision be added to the agenda for next month to consider any possible unintended consequences. Vice Chair Richards and Commissioner Gardner both agree that it is important to get it right and ensure that the consumer is being protected.

A motion was made to adjourn the meeting. Vote: Chair Hiatt, yes; Vice Chair Richards, yes; Commissioner Gardner, yes; Commissioner Gonzales, yes; Commissioner Ashton, yes. The motion is approved. The meeting adjourned at 10:03 a.m.